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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/738,384

12/17/2003

David R. Hennings

CTI-201

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EXAMINER

FARAH, AHMED M

ART UNIT

PAPER NUMBER

3735

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/738,384

Applicant(s)

HENNINGS, DAVID R.

Examiner

Ahmed M. Farah

Art Unit

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 and 12 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date Jan. 11, 2006
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- ☐ Notice of Informal Patent Application
- ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 4, 5, 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Tannenbaum et al. US Patent No. 6,248,103.

Tannenbaum et al. disclose a method and apparatus for treating biological tissues, such as superficial pigmented lesions, the method comprising the steps of: generating pulsed energy from an energy source for treatment of target tissues; pre-cooling the surface of the skin for predetermined time by delivering pulses of cryogenic spurts to the surface of the skin; and irradiating the target tissues with pulsed energy to cause thermally mediated treatment as presently claimed (see the abstract; col. 3, lines 14-63; col. 4, lines 30-33, and claim 1).

With respect to claims 4 and 5, Tannenbaum et al. teach the cryogenic spurts have durations of few milliseconds, and the pulsed laser energy has duration of 10-100 milliseconds (see col.11, lines 23-29).

2. Claims 1, 2, 4, 5, 7, 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Koop et al. US Patent No. 6,451,007.

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Koop et al. disclose apparatus and method for treating biological tissues, the method comprising the steps of: generating pulsed energy from an energy source for treatment of target tissues; pre-cooling the surface of the skin for predetermined time by delivering pulses of cryogenic spurts to the surface of the skin (see claim 9); and irradiating the target tissues with pulsed energy to cause thermally mediated treatment of the target tissue as presently claimed.

With respect to claim 2, Koop et al. teach the delivery of the treatment energy is delayed between 0-100 msec. following the delivery of the cryogenic spurts (see col. 6, lines 14-22). With respect to claims 4 and 5, see col. 7, lines 3-8. With respect to claim 7, see claim 12 of Koop et al.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tannenbaum et al. in view of Ghaffari US Patent No. 5,344,418.

Although Tannenbaum et al., described above, teach absorption wavelength of a pigmented lesion in the visible range of the EM spectra (see col. 1, line 66 to col. 2, line 14), they do not particularly teach the use of optical energy in the wavelength range of 400-600 nm as presently claimed.

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However, Ghaffari teaches an alternative method for treating a tissue condition, the method comprising the steps of: cooling the target tissue, and irradiating said tissue with optical energy, wherein the optical energy is in the wavelength range of between 488-590 nm (see col. 3, lines 45-48). Hence, at the time of the applicant's invention, it would have been obvious to one skilled in the art to use optical energy in the visible region to treat deeper tissues. As though by Ghaffari, this wavelength range has "a higher penetration depth with minimal epidermis heating and scarring."

Allowable Subject Matter

Claims 11 and 12 are allowed.

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M. Farah whose telephone number is (571) 272-4765. The examiner can normally be reached on Mon, Tue, Thur and Fri between 9:30 AM 7:30 PM.

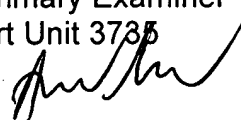
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marmor II Charles can be reached on (571) 272-4730. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ahmed M Farah
Primary Examiner
Art Unit 3735



March 27, 2007.